

AMENDED IN ASSEMBLY MARCH 2, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 180**

**Introduced by Assembly Member Jerome Horton  
(Coauthors: Assembly Members Benoit and Matthews)**

January 24, 2005

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An act to amend Sections 6738 and 8729 of the Business and Professions Code, and to amend Sections 16101, 16956, and 16959 of the Corporations Code, relating to limited liability partnerships.

LEGISLATIVE COUNSEL'S DIGEST

AB 180, as amended, Jerome Horton. Limited liability partnerships: engineers and land surveyors.

Existing law provides for the licensure and regulation of engineers and land surveyors. Existing law provides for the formation of various types of legal entities, including limited liability partnerships and foreign limited liability partnerships. Under existing law, registered limited liability partnerships and foreign limited liability partnerships may only be formed for the practice of accountancy, the practice of law, and, until January 1, 2007, the practice of architecture.

This bill would also authorize registered limited liability partnerships and foreign limited liability partnerships to be formed for the practice of engineering or land surveying, and would provide that an engineer or land surveyor is not prohibited from practicing or offering to practice, within the scope of their registration, as a limited liability partnership.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 6738 of the Business and Professions Code is amended to read:

6738. (a) This chapter does not prohibit one or more civil, electrical, or mechanical engineers from practicing or offering to practice within the scope of their registration, civil, electrical, or mechanical engineering as a sole proprietorship, partnership, limited liability partnership, firm, or corporation (hereinafter called business), if all of the following requirements are met:

(1) A civil, electrical, or mechanical engineer currently registered in this state is an owner, part owner, or officer in charge of the engineering practice of the business.

(2) All engineering plans, specifications, reports, and documents are prepared under the responsible charge of a registered engineer in the appropriate branch of professional engineering.

(3) The business name of a California business shall only contain the name of any person who is registered by the board in a branch of professional engineering, a licensed land surveyor, a licensed architect, or a geologist registered under the Geologist Act (Chapter 12.5 (commencing with Section 7800)). Any offer, promotion, or advertisement by the business which contains the name of any individual in the business, other than by use of the name of an individual in the business name, shall clearly and specifically designate the license or registration discipline of each individual named.

(b) An out-of-state business with a branch office in this state shall meet the requirements of subdivision (a) and shall have a part owner or officer who is in charge of the engineering work in the branch in this state, who is registered in this state, and who is physically present at the branch office in this state on a regular basis. However, the name of the business may contain the name of any person not registered in this state if that person is appropriately registered in another state. Any offer, promotion, or advertisement which contains the name of any individual in the business, other than by use of the names of the individuals in the business name, shall clearly and specifically designate the license or registration discipline of each individual named.

1 (c) A fictitious name may be used for an engineering business  
2 if (1) the name does not conflict with paragraph (3) of  
3 subdivision (a) requiring that names used in the business name  
4 shall be appropriately registered individuals, and (2) an  
5 organization record form is filed with the board.

6 (d) A nonregistered person may also be a part owner or an  
7 officer of a civil, electrical, or mechanical engineering business if  
8 the requirements of subdivision (a) are met.

9 (e) This chapter does not prevent an individual or business  
10 engaged in any line of endeavor other than the practice of civil,  
11 electrical, or mechanical engineering from employing or  
12 contracting with a registered civil, electrical, or mechanical  
13 engineer to perform the respective engineering services  
14 incidental to the conduct of business.

15 (f) This section shall not prevent the use of the name of any  
16 business engaged in rendering civil, electrical, or mechanical  
17 engineering services, including the use by any lawful successor  
18 or survivor, which lawfully was in existence on December 31,  
19 1987. However, the business is subject to paragraphs (1) and (2)  
20 of subdivision (a), and the business shall file an organization  
21 record form with the board as designated by board rule.

22 (g) A business engaged in rendering civil, electrical, or  
23 mechanical engineering services may use in its name the name of  
24 a deceased or retired person provided all of the following  
25 conditions are satisfied:

26 (1) The person's name had been used in the name of the  
27 business, or a predecessor in interest of the business, prior to and  
28 after the death or retirement of the person.

29 (2) The person shall have been an owner, part owner, or  
30 officer of the business, or an owner, part owner, or officer of the  
31 predecessor in interest of the business.

32 (3) The person shall have been licensed as a professional  
33 engineer, or a land surveyor, or an architect, or a geologist, (A)  
34 by the appropriate licensing board if that person is operating a  
35 place of business or practice in this state, or (B) by the applicable  
36 state board in the event no place of business existed in this state.

37 (4) The person, if retired, has consented to the use of the name  
38 and does not permit the use of the name in the title of another  
39 professional engineering business in this state during the period  
40 of the consent. However, the retired person may use his or her

1 name as the name of a new or purchased business if it is not  
2 identical in every respect to that person's name as used in the  
3 former business.

4 (5) The business shall be subject to the provisions of  
5 paragraphs (1) and (2) of subdivision (a).

6 (6) The business files a current organization record form with  
7 the board.

8 (h) This section does not affect the provisions of Sections  
9 6731.2 and 8726.1.

10 SEC. 2. Section 8729 of the Business and Professions Code is  
11 amended to read:

12 8729. (a) This chapter does not prohibit one or more licensed  
13 land surveyors or civil engineers registered in this state prior to  
14 1982 (hereinafter called civil engineers) from practicing or  
15 offering to practice within the scope of their licensure, land  
16 surveying as a sole proprietorship, partnership, limited liability  
17 partnership, firm, or corporation (hereinafter called business), if  
18 the following conditions are satisfied:

19 (1) A land surveyor or civil engineer currently licensed in the  
20 state is an owner, part owner, or officer in charge of the land  
21 surveying practice of the business.

22 (2) All maps, plats, reports, descriptions, or other documents  
23 are prepared under the responsible charge of a land surveyor or  
24 civil engineer.

25 (3) The business name of a California business shall only  
26 contain the name of a person licensed by the board as a land  
27 surveyor or registered by the board in any year as a civil  
28 engineer. Any offer, promotion, or advertisement by the business  
29 which contains the name of any individual in the business, other  
30 than by use of the name of the individual in the business name,  
31 shall clearly and specifically designate the license or registration  
32 discipline of each individual named.

33 (b) An out-of-state business with a branch office in this state  
34 shall meet the requirements of subdivision (a) and shall have a  
35 part owner or officer who is in charge of the land surveying work  
36 in this state, who is licensed in this state, and who is physically  
37 present at the branch office in this state on a regular basis.  
38 However, the name of the business may contain the name of a  
39 person not licensed in this state, if that person is appropriately  
40 licensed in another state. Any offer, promotion, or advertisement

1 which contains the name of any individual in the business, other  
2 than by use of the name of the individual in the business name,  
3 shall clearly and specifically designate the license or registration  
4 discipline of each individual named.

5 (c) A fictitious name may be used for a land surveying  
6 business if (1) the name does not conflict with the provisions of  
7 paragraph (3) of subdivision (a) requiring that a name used in the  
8 business name shall be that of an appropriately licensed  
9 individual, and (2) an organization record is filed with the board.

10 (d) A nonregistered person may also be a part owner or an  
11 officer of a land surveying business if the conditions of  
12 subdivision (a) are satisfied.

13 (e) This chapter does not prevent an individual or business  
14 engaged in any line of endeavor, other than the practice of land  
15 surveying, from employing or contracting with a licensed land  
16 surveyor or a registered civil engineer to perform the respective  
17 land surveying services incidental to the conduct of business.

18 (f) This section shall not prevent the use of the name of any  
19 business engaged in rendering land surveying services, including  
20 the use by any lawful successor or survivor, which lawfully was  
21 in existence on June 1, 1941. However, the business is subject to  
22 the provisions of paragraphs (1) and (2) of subdivision (a) and  
23 the business shall file an organization record form with the board  
24 as designated by board rule.

25 (g) A business engaged in rendering land surveying services  
26 may use in its name the name of a deceased or retired person if  
27 the following conditions are satisfied:

28 (1) The person's name had been used in the name of the  
29 business, or a predecessor in interest of the business, prior to the  
30 death or retirement of the person.

31 (2) The person shall have been an owner, part owner, or  
32 officer of the business, or an owner, part owner, or officer of the  
33 predecessor in interest of the business.

34 (3) The person shall have been licensed as a land surveyor or a  
35 civil engineer by the board, if operating a place of business or  
36 practice in this state, or by an applicable state board in the event  
37 no place of business existed in this state.

38 (4) The person, if retired, has consented to the use of the name  
39 and does not permit the use of the name in the title of another  
40 land surveying business in this state during the period of that

1 consent, except that a retired person may use his or her name as  
2 the name of a new or purchased business, if that business is not  
3 identical in every respect to that person's name as used in the  
4 former business.

5 (5) The business shall be subject to paragraphs (1) and (2) of  
6 subdivision (a).

7 (6) The business files a current organization record form with  
8 the board.

9 (h) This section does not affect Sections 6731.2 and 8726.1.

10 SEC. 3. Section 16101 of the Corporations Code is amended  
11 to read:

12 16101. As used in this chapter, the following terms and  
13 phrases have the following meanings:

14 (1) "Business" includes every trade, occupation, and  
15 profession.

16 (2) "Debtor in bankruptcy" means a person who is the subject  
17 of either of the following:

18 (A) An order for relief under Title 11 of the United States  
19 Code or a comparable order under a successor statute of general  
20 application.

21 (B) A comparable order under federal, state, or foreign law  
22 governing insolvency.

23 (3) "Distribution" means a transfer of money or other property  
24 from a partnership to a partner in the partner's capacity as a  
25 partner or to the partner's transferee.

26 (4) "Electronic transmission by the partnership" means a  
27 communication (a) delivered by (1) facsimile telecommunication  
28 or electronic mail when directed to the facsimile number or  
29 electronic mail address, respectively, for that recipient on record  
30 with the partnership, (2) posting on an electronic message board  
31 or network that the partnership has designated for those  
32 communications, together with a separate notice to the recipient  
33 of the posting, which transmission shall be validly delivered  
34 upon the later of the posting or delivery of the separate notice  
35 thereof, or (3) other means of electronic communication, (b) to a  
36 recipient who has provided an unrevoked consent to the use of  
37 those means of transmission, and (c) that creates a record that is  
38 capable of retention, retrieval, and review, and that may  
39 thereafter be rendered into clearly legible tangible form.  
40 However, an electronic transmission by a partnership to an

individual partner is not authorized unless, in addition to satisfying the requirements of this section, the transmission satisfies the requirements applicable to consumer consent to electronic records as set forth in the Electronic Signatures in Global and National Commerce Act (15 U.S.C. Sec. 7001(c)(1)).

(5) “Electronic transmission to the partnership” means a communication (a) delivered by (1) facsimile telecommunication or electronic mail when directed to the facsimile number or electronic mail address, respectively, which the partnership has provided from time to time to partners for sending communications to the partnership, (2) posting on an electronic message board or network that the partnership has designated for those communications, and which transmission shall be validly delivered upon the posting, or (3) other means of electronic communication, (b) as to which the partnership has placed in effect reasonable measures to verify that the sender is the partner (in person or by proxy) purporting to send the transmission, and (c) that creates a record that is capable of retention, retrieval, and review, and that may thereafter be rendered into clearly legible tangible form.

(6) (A) “Foreign limited liability partnership” means a partnership, other than a limited partnership, formed pursuant to an agreement governed by the laws of another jurisdiction and denominated or registered as a limited liability partnership or registered limited liability partnership under the laws of that jurisdiction (i) in which each partner is a licensed person or a person licensed or authorized to provide professional limited liability partnership services in a jurisdiction or jurisdictions other than this state, (ii) which is licensed under the laws of the state to engage in the practice of architecture, the practice of engineering, the practice of land surveying, the practice of public accountancy, or the practice of law, or (iii) which (I) is related to a registered limited liability partnership that practices public accountancy or, to the extent permitted by the State Bar, practices law or is related to a foreign limited liability partnership and (II) provides services related or complementary to the professional limited liability partnership services provided by, or provides services or facilities to, that registered limited liability partnership or foreign limited liability partnership.

(B) For the purposes of clause (iii) of subparagraph (A), a partnership is related to a registered limited liability partnership or foreign limited liability partnership if (i) at least a majority of the partners in one partnership are also partners in the other partnership, or (ii) at least a majority in interest in each partnership hold interests in or are members of another person, except an individual, and each partnership renders services pursuant to an agreement with that other person, or (iii) one partnership, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the other partnership.

(7) “Licensed person” means any person who is duly licensed, authorized, or registered under the provisions of the Business and Professions Code to provide professional limited liability partnership services or who is lawfully able to render professional limited liability partnership services in this state.

(8) (A) “Registered limited liability partnership” means a partnership, other than a limited partnership, formed pursuant to an agreement governed by Article 10 (commencing with Section 16951), that is registered under Section 16953 and (i) each of the partners of which is a licensed person or a person licensed or authorized to provide professional limited liability partnership services in a jurisdiction or jurisdictions other than this state, (ii) is licensed under the laws of the state to engage in the practice of architecture, the practice of engineering, the practice of land surveying, the practice of public accountancy, or the practice of law, or (iii)(I) is related to a registered limited liability partnership that practices public accountancy or, to the extent permitted by the State Bar, practices law or is related to a foreign limited liability partnership and (II) provides services related or complementary to the professional limited liability partnership services provided by, or provides services or facilities to, that registered limited liability partnership or foreign limited liability partnership.

(B) For the purposes of clause (iii) of subparagraph (A), a partnership is related to a registered limited liability partnership or foreign limited liability partnership if (i) at least a majority of the partners in one partnership are also partners in the other partnership, or (ii) at least a majority in interest in each partnership hold interests in or are members of another person,



1 other than an individual, and each partnership renders services  
2 pursuant to an agreement with that other person, or (iii) one  
3 partnership, directly or indirectly through one or more  
4 intermediaries, controls, is controlled by, or is under common  
5 control with, the other partnership.

6 (9) “Partnership” means an association of two or more persons  
7 to carry on as coowners a business for profit formed under  
8 Section 16202, predecessor law, or comparable law of another  
9 jurisdiction, and includes, for all purposes of the laws of this  
10 state, a registered limited liability partnership, and excludes any  
11 partnership formed under Chapter 2 (commencing with Section  
12 15501) or Chapter 3 (commencing with Section 15611).

13 (10) “Partnership agreement” means the agreement, whether  
14 written, oral, or implied, among the partners concerning the  
15 partnership, including amendments to the partnership agreement.

16 (11) “Partnership at will” means a partnership in which the  
17 partners have not agreed to remain partners until the expiration of  
18 a definite term or the completion of a particular undertaking.

19 (12) “Partnership interest” or “partner’s interest in the  
20 partnership” means all of a partner’s interests in the partnership,  
21 including the partner’s transferable interest and all management  
22 and other rights.

23 (13) “Person” means an individual, corporation, business trust,  
24 estate, trust, partnership, limited partnership, limited liability  
25 partnership, limited liability company, association, joint venture,  
26 government, governmental subdivision, agency, or  
27 instrumentality, or any other legal or commercial entity.

28 (14) “Professional limited liability partnership services” means  
29 the practice of architecture, the practice of engineering, the  
30 practice of land surveying, the practice of public accountancy, or  
31 the practice of law.

32 (15) “Property” means all property, real, personal, or mixed,  
33 tangible or intangible, or any interest therein.

34 (16) “State” means a state of the United States, the District of  
35 Columbia, the Commonwealth of Puerto Rico, or any territory or  
36 insular possession subject to the jurisdiction of the United States.

37 (17) “Statement” means a statement of partnership authority  
38 under Section 16303, a statement of denial under Section 16304,  
39 a statement of dissociation under Section 16704, a statement of  
40 dissolution under Section 16805, a statement of conversion or a

1 certificate of conversion under Section 16906, a statement of  
2 merger under Section 16915, or an amendment or cancellation of  
3 any of the foregoing.

4 (18) “Transfer” includes an assignment, conveyance, lease,  
5 mortgage, deed, and encumbrance.

6 (19) The inclusion of the practice of architecture as a  
7 professional limited liability partnership service permitted by this  
8 section shall extend only until January 1, 2007.

9 SEC. 4. Section 16956 of the Corporations Code is amended  
10 to read:

11 16956. (a) At the time of registration pursuant to Section  
12 16953, in the case of a registered limited liability partnership,  
13 and Section 16959, in the case of a foreign limited liability  
14 partnership, and at all times during which those partnerships shall  
15 transact intrastate business, every registered limited liability  
16 partnership and foreign limited liability partnership, as the case  
17 may be, shall be required to provide security for claims against it  
18 as follows:

19 (1) For claims based upon acts, errors, or omissions arising out  
20 of the practice of public accountancy, a registered limited  
21 liability partnership or foreign limited liability partnership  
22 providing accountancy services shall comply with one, or  
23 pursuant to subdivision (b) some combination, of the following:

24 (A) Maintaining a policy or policies of insurance against  
25 liability imposed on or against it by law for damages arising out  
26 of claims in an amount for each claim of at least one hundred  
27 thousand dollars (\$100,000) multiplied by the number of licensed  
28 persons rendering professional services on behalf of the  
29 partnership; however, the total aggregate limit of liability under  
30 the policy or policies of insurance for partnerships with fewer  
31 than five licensed persons shall not be less than five hundred  
32 thousand dollars (\$500,000), and for all other partnerships is not  
33 required to exceed five million dollars (\$5,000,000) in any one  
34 designated period, less amounts paid in defending, settling, or  
35 discharging claims as set forth in this subparagraph. The policy  
36 or policies may be issued on a claims-made or occurrence basis,  
37 and shall cover: (i) in the case of a claims-made policy, claims  
38 initially asserted in the designated period, and (ii) in the case of  
39 an occurrence policy, occurrences during the designated period.  
40 For purposes of this subparagraph, “designated period” means a

1 policy year or any other period designated in the policy that is  
2 not greater than 12 months. The impairment or exhaustion of the  
3 aggregate limit of liability by amounts paid under the policy in  
4 connection with the settlement, discharge, or defense of claims  
5 applicable to a designated period shall not require the partnership  
6 to acquire additional insurance coverage for that designated  
7 period. The policy or policies of insurance may be in a form  
8 reasonably available in the commercial insurance market and  
9 may be subject to those terms, conditions, exclusions, and  
10 endorsements that are typically contained in those policies. A  
11 policy or policies of insurance maintained pursuant to this  
12 subparagraph may be subject to a deductible or self-insured  
13 retention.

14 Upon the dissolution and winding up of the partnership, the  
15 partnership shall, with respect to any insurance policy or policies  
16 then maintained pursuant to this subparagraph, maintain or obtain  
17 an extended reporting period endorsement or equivalent  
18 provision in the maximum total aggregate limit of liability  
19 required to comply with this subparagraph for a minimum of  
20 three years if reasonably available from the insurer.

21 (B) Maintaining in trust or bank escrow, cash, bank  
22 certificates of deposit, United States Treasury obligations, bank  
23 letters of credit, or bonds of insurance or surety companies as  
24 security for payment of liabilities imposed by law for damages  
25 arising out of all claims in an amount of at least one hundred  
26 thousand dollars (\$100,000) multiplied by the number of licensed  
27 persons rendering professional services on behalf of the  
28 partnership; however, the maximum amount of security for  
29 partnerships with fewer than five licensed persons shall not be  
30 less than five hundred thousand dollars (\$500,000), and for all  
31 other partnerships is not required to exceed five million dollars  
32 (\$5,000,000). The partnership remains in compliance with this  
33 section during a calendar year notwithstanding amounts paid  
34 during that calendar year from the accounts, funds, Treasury  
35 obligations, letters of credit, or bonds in defending, settling, or  
36 discharging claims of the type described in this paragraph,  
37 provided that the amount of those accounts, funds, Treasury  
38 obligations, letters of credit, or bonds was at least the amount  
39 specified in the preceding sentence as of the first business day of  
40 that calendar year. Notwithstanding the pendency of other claims

1 against the partnership, a registered limited liability partnership  
2 or foreign limited liability partnership shall be deemed to be in  
3 compliance with this subparagraph as to a claim if within 30 days  
4 after the time that a claim is initially asserted through service of a  
5 summons, complaint, or comparable pleading in a judicial or  
6 administrative proceeding, the partnership has provided the  
7 required amount of security by designating and segregating funds  
8 in compliance with the requirements of this subparagraph.

9 (C) Unless the partnership has satisfied subparagraph (D),  
10 each partner of a registered limited liability partnership or foreign  
11 limited liability partnership providing accountancy services, by  
12 virtue of that person's status as a partner, thereby automatically  
13 guarantees payment of the difference between the maximum  
14 amount of security required for the partnership by this paragraph  
15 and the security otherwise provided in accordance with  
16 subparagraphs (A) and (B), provided that the aggregate amount  
17 paid by all partners under these guarantees shall not exceed the  
18 difference. Neither withdrawal by a partner nor the dissolution  
19 and winding up of the partnership shall affect the rights or  
20 obligations of a partner arising prior to withdrawal or dissolution  
21 and winding up, and the guarantee provided for in this  
22 subparagraph shall apply only to conduct that occurred prior to  
23 the withdrawal or dissolution and winding up. Nothing contained  
24 in this subparagraph shall affect or impair the rights or  
25 obligations of the partners among themselves, or the partnership,  
26 including, but not limited to, rights of contribution, subrogation,  
27 or indemnification.

28 (D) Confirming, pursuant to the procedure in subdivision (c),  
29 that, as of the most recently completed fiscal year of the  
30 partnership, it had a net worth equal to or exceeding ten million  
31 dollars (\$10,000,000).

32 (2) For claims based upon acts, errors, or omissions arising out  
33 of the practice of law, a registered limited liability partnership or  
34 foreign limited liability partnership providing legal services shall  
35 comply with one, or pursuant to subdivision (b) some  
36 combination, of the following:

37 (A) Each registered limited liability partnership or foreign  
38 limited liability partnership providing legal services shall  
39 maintain a policy or policies of insurance against liability  
40 imposed on or against it by law for damages arising out of claims

1 in an amount for each claim of at least one hundred thousand  
2 dollars (\$100,000) multiplied by the number of licensed persons  
3 rendering professional services on behalf of the partnership;  
4 however, the total aggregate limit of liability under the policy or  
5 policies of insurance for partnerships with fewer than five  
6 licensed persons shall not be less than five hundred thousand  
7 dollars (\$500,000), and for all other partnerships is not required  
8 to exceed seven million five hundred thousand dollars  
9 (\$7,500,000) in any one designated period, less amounts paid in  
10 defending, settling, or discharging claims as set forth in this  
11 subparagraph. The policy or policies may be issued on a  
12 claims-made or occurrence basis, and shall cover (i) in the case  
13 of a claims-made policy, claims initially asserted in the  
14 designated period, and (ii) in the case of an occurrence policy,  
15 occurrences during the designated period. For purposes of this  
16 subparagraph, “designated period” means a policy year or any  
17 other period designated in the policy that is not greater than 12  
18 months. The impairment or exhaustion of the aggregate limit of  
19 liability by amounts paid under the policy in connection with the  
20 settlement, discharge, or defense of claims applicable to a  
21 designated period shall not require the partnership to acquire  
22 additional insurance coverage for that designated period. The  
23 policy or policies of insurance may be in a form reasonably  
24 available in the commercial insurance market and may be subject  
25 to those terms, conditions, exclusions, and endorsements that are  
26 typically contained in those policies. A policy or policies of  
27 insurance maintained pursuant to this subparagraph may be  
28 subject to a deductible or self-insured retention.

29 Upon the dissolution and winding up of the partnership, the  
30 partnership shall, with respect to any insurance policy or policies  
31 then maintained pursuant to this subparagraph, maintain or obtain  
32 an extended reporting period endorsement or equivalent  
33 provision in the maximum total aggregate limit of liability  
34 required to comply with this subparagraph for a minimum of  
35 three years if reasonably available from the insurer.

36 (B) Each registered limited liability partnership or foreign  
37 limited liability partnership providing legal services shall  
38 maintain in trust or bank escrow, cash, bank certificates of  
39 deposit, United States Treasury obligations, bank letters of credit,  
40 or bonds of insurance or surety companies as security for

1 payment of liabilities imposed by law for damages arising out of  
2 all claims in an amount of at least one hundred thousand dollars  
3 (\$100,000) multiplied by the number of licensed persons  
4 rendering professional services on behalf of the partnership;  
5 however, the maximum amount of security for partnerships with  
6 fewer than five licensed persons shall not be less than five  
7 hundred thousand dollars (\$500,000), and for all other  
8 partnerships is not required to exceed seven million five hundred  
9 thousand dollars (\$7,500,000). The partnership remains in  
10 compliance with this section during a calendar year  
11 notwithstanding amounts paid during that calendar year from the  
12 accounts, funds, Treasury obligations, letters of credit, or bonds  
13 in defending, settling, or discharging claims of the type described  
14 in this paragraph, provided that the amount of those accounts,  
15 funds, Treasury obligations, letters of credit, or bonds was at  
16 least the amount specified in the preceding sentence as of the first  
17 business day of that calendar year. Notwithstanding the pendency  
18 of other claims against the partnership, a registered limited  
19 liability partnership or foreign limited liability partnership shall  
20 be deemed to be in compliance with this subparagraph as to a  
21 claim if within 30 days after the time that a claim is initially  
22 asserted through service of a summons, complaint, or comparable  
23 pleading in a judicial or administrative proceeding, the  
24 partnership has provided the required amount of security by  
25 designating and segregating funds in compliance with the  
26 requirement of this subparagraph.

27 (C) Unless the partnership has satisfied the requirements of  
28 subparagraph (D), each partner of a registered limited liability  
29 partnership or foreign limited liability partnership providing legal  
30 services, by virtue of that person's status as a partner, thereby  
31 automatically guarantees payment of the difference between the  
32 maximum amount of security required for the partnership by this  
33 paragraph and the security otherwise provided in accordance  
34 with the provisions of subparagraphs (A) and (B), provided that  
35 the aggregate amount paid by all partners under these guarantees  
36 shall not exceed the difference. Neither withdrawal by a partner  
37 nor the dissolution and winding up of the partnership shall affect  
38 the rights or obligations of a partner arising prior to withdrawal  
39 or dissolution and winding up, and the guarantee provided for in  
40 this subparagraph shall apply only to conduct that occurred prior

1 to the withdrawal or dissolution and winding up. Nothing  
2 contained in this subparagraph shall affect or impair the rights or  
3 obligations of the partners among themselves, or the partnership,  
4 including, but not limited to, rights of contribution, subrogation,  
5 or indemnification.

6 (D) Confirming, pursuant to the procedure in subdivision (c),  
7 that, as of the most recently completed fiscal year of the  
8 partnership, it had a net worth equal to or exceeding fifteen  
9 million dollars (\$15,000,000).

10 (3) For claims based upon acts, errors, or omissions arising out  
11 of the practice of architecture, a registered limited liability  
12 partnership or foreign limited liability partnership providing  
13 architectural services shall comply with one, or pursuant to  
14 subdivision (b) some combination, of the following:

15 (A) Maintaining a policy or policies of insurance against  
16 liability imposed on or against it by law for damages arising out  
17 of claims in an amount for each claim of at least one hundred  
18 thousand dollars (\$100,000) multiplied by the number of licensed  
19 persons rendering professional services on behalf of the  
20 partnership; however, the total aggregate limit of liability under  
21 the policy or policies of insurance for partnerships with fewer  
22 persons shall not be less than five hundred thousand dollars  
23 (\$500,000), and for all other partnerships is not required to  
24 exceed five million dollars (\$5,000,000) in any one designated  
25 period, less amounts paid in defending, settling, or discharging  
26 claims as set forth in this subparagraph. The policy or policies  
27 may be issued on a claims-made or occurrence basis, and shall  
28 cover: (i) in the case of a claims-made policy, claims initially  
29 asserted in the designated period, and (ii) in the case of an  
30 occurrence policy, occurrences during the designated period. For  
31 purposes of this subparagraph, “designated period” means a  
32 policy year or any other period designated in the policy that is  
33 not greater than 12 months. The impairment or exhaustion of the  
34 aggregate limit of liability by amounts paid under the policy in  
35 connection with the settlement, discharge, or defense of claims  
36 applicable to a designated period shall not require the partnership  
37 to acquire additional insurance coverage for that designated  
38 period. The policy or policies of insurance may be in a form  
39 reasonably available in the commercial insurance market and  
40 may be subject to those terms, conditions, exclusions, and

1 endorsements that are typically contained in those policies. A  
2 policy or policies of insurance maintained pursuant to this  
3 subparagraph may be subject to a deductible or self-insured  
4 retention.

5 Upon the dissolution and winding up of the partnership, the  
6 partnership shall, with respect to any insurance policy or policies  
7 then maintained pursuant to this subparagraph, maintain or obtain  
8 an extended reporting period endorsement or equivalent  
9 provision in the maximum total aggregate limit of liability  
10 required to comply with this subparagraph for a minimum of  
11 three years if reasonably available from the insurer.

12 (B) Maintaining in trust or bank escrow, cash, bank  
13 certificates of deposit, United States Treasury obligations, bank  
14 letters of credit, or bonds of insurance or surety companies as  
15 security for payment of liabilities imposed by law for damages  
16 arising out of all claims in an amount of at least one hundred  
17 thousand dollars (\$100,000) multiplied by the number of licensed  
18 persons rendering professional services on behalf of the  
19 partnership; however, the maximum amount of security for  
20 partnerships with fewer than five licensed persons shall not be  
21 less than five hundred thousand dollars (\$500,000), and for all  
22 other partnerships is not required to exceed five million dollars  
23 (\$5,000,000). The partnership remains in compliance with this  
24 section during a calendar year notwithstanding amounts paid  
25 during that calendar year from the accounts, funds, Treasury  
26 obligations, letters of credit, or bonds in defending, settling, or  
27 discharging claims of the type described in this paragraph,  
28 provided that the amount of those accounts, funds, Treasury  
29 obligations, letters of credit, or bonds was at least the amount  
30 specified in the preceding sentence as of the first business day of  
31 that calendar year. Notwithstanding the pendency of other claims  
32 against the partnership, a registered limited liability partnership  
33 or foreign limited liability partnership shall be deemed to be in  
34 compliance with this subparagraph as to a claim if within 30 days  
35 after the time that a claim is initially asserted through service of a  
36 summons, complaint, or comparable pleading in a judicial or  
37 administrative proceeding, the partnership has provided the  
38 required amount of security by designating and segregating funds  
39 in compliance with the requirements of this subparagraph.



1 (C) Unless the partnership has satisfied subparagraph (D),  
2 each partner of a registered limited liability partnership or foreign  
3 limited liability partnership providing architectural services, by  
4 virtue of that person's status as a partner, thereby automatically  
5 guarantees payment of the difference between the maximum  
6 amount of security required for the partnership by this paragraph  
7 and the security otherwise provided in accordance with  
8 subparagraphs (A) and (B), provided that the aggregate amount  
9 paid by all partners under these guarantees shall not exceed the  
10 difference. Neither withdrawal by a partner nor the dissolution  
11 and winding up of the partnership shall affect the rights or  
12 obligations of a partner arising prior to withdrawal or dissolution  
13 and winding up, and the guarantee provided for in this  
14 subparagraph shall apply only to conduct that occurred prior to  
15 the withdrawal or dissolution and winding up. Nothing contained  
16 in this subparagraph shall affect or impair the rights or  
17 obligations of the partners among themselves, or the partnership,  
18 including, but not limited to, rights of contribution, subrogation,  
19 or indemnification.

20 (D) Confirming, pursuant to the procedure in subdivision (c),  
21 that, as of the most recently completed fiscal year of the  
22 partnership, it had a net worth equal to or exceeding ten million  
23 dollars (\$10,000,000).

24 (4) For claims based upon acts, errors, or omissions arising out  
25 of the practice of engineering or land surveying, a registered  
26 limited liability partnership or foreign limited liability  
27 partnership providing engineering or land surveying services  
28 shall comply with one, or pursuant to subdivision (b) some  
29 combination, of the following

30 (A) Maintaining a policy or policies of insurance against  
31 liability imposed on or against it by law for damages arising out  
32 of claims in an amount for each claim and in the annual  
33 aggregate of at least one million dollars (\$1,000,000). The policy  
34 or policies may be issued on a claims-made or occurrence basis,  
35 and shall cover the following:

36 (i) In the case of a claims-made policy, claims initially  
37 asserted in the designated period.

38 (ii) In the case of an occurrence policy, occurrences during the  
39 designated period.

1 For purposes of this subparagraph, “designated period” means  
2 a policy year or any other period designated in the policy that is  
3 not greater than 12 months. The impairment or exhaustion of the  
4 aggregate limit of liability by amounts paid under the policy in  
5 connection with the settlement, discharge, or defense of claims  
6 applicable to a designated period shall not require the partnership  
7 to acquire additional insurance coverage for that designated  
8 period. The policy or policies of insurance may be in a form  
9 reasonably available in the commercial insurance market and  
10 may be subject to those terms, conditions, exclusions, and  
11 endorsements that are typically contained in those policies. A  
12 policy or policies of insurance maintained pursuant to this  
13 subparagraph may be subject to a deductible or self-insured  
14 retention.

15 Upon the dissolution and winding up of the partnership, the  
16 partnership shall, with respect to any insurance policy or policies  
17 then maintained pursuant to this subparagraph, maintain or obtain  
18 an extended reporting period endorsement or equivalent  
19 provision in the maximum total aggregate limit of liability  
20 required to comply with this subparagraph for a minimum of  
21 three years if reasonably available from the insurer.

22 (B) Maintaining in trust or bank escrow, cash, bank  
23 certificates of deposit, United States Treasury obligations, bank  
24 letters of credits, or bonds of insurance or surety companies as  
25 security for payment of liabilities imposed by law for damages  
26 arising out of all claims in an amount of at least one million  
27 dollars (\$1,000,000). The partnership remains in compliance with  
28 this section during a calendar year notwithstanding amounts paid  
29 during that calendar year from the accounts, funds, Treasury  
30 obligations, letters of credit, or bonds in defending, settling, or  
31 discharging claims of the type described in this paragraph,  
32 provided that the amount of those accounts, funds, Treasury  
33 obligations, letters of credit, or bonds was at least the amount  
34 specified in the preceding sentence as of the first business day of  
35 that calendar year. Notwithstanding the pendency of other claims  
36 against the partnership, a registered limited liability partnership  
37 or foreign limited liability partnership shall be deemed to be in  
38 compliance with this subparagraph as to a claim if, within 30  
39 days after the time that a claim is initially asserted through  
40 service of a summons, complaint, or comparable pleading in a

judicial or administrative proceeding, the partnership has provided the required amount of security by designating and segregating funds in compliance with the requirements of this subparagraph.

(C) Unless the partnership has satisfied subparagraph (D), each partner of a registered limited liability partnership or foreign limited liability partnership providing engineering, or land surveying services, by virtue of that person's status as a partner, thereby automatically guarantees payment of the difference between the maximum amount of security required for the partnership by this paragraph and the security otherwise provided in accordance with subparagraphs (A) and (B), provided that the aggregate amount paid by all partners under these guarantees shall not exceed the difference. Neither withdrawal by a partner nor the dissolution and winding up of the partnership affects the rights or obligations of a partner arising prior to withdrawal or dissolution and winding up, and the guarantee provided for in this subparagraph shall apply only to conduct that occurred prior to the withdrawal or dissolution and winding up. Nothing contained in this subparagraph shall affect or impair the rights or obligations of the partners among themselves, or the partnership, including, but not limited to, rights of contribution, subrogation, or indemnification.

(D) Confirming, pursuant to the procedure in subdivision (c), that, as of the most recently completed fiscal year of the partnership, it had a net worth equal to or exceeding ten million dollars (\$10,000,000).

(b) For purposes of satisfying the security requirements of this section, a registered limited liability partnership or foreign limited liability partnership may aggregate the security provided by it pursuant to subparagraphs (A), (B), (C), and (D) of paragraph (1) of subdivision (a), subparagraphs (A), (B), (C), and (D) of paragraph (2) of subdivision (a), ~~or~~ subparagraphs (A), (B), (C), and (D) of paragraph (3) of subdivision (a), *or subparagraphs (A), (B), (C), and (D) of paragraph (4) of subdivision (a)*, as the case may be. Any registered limited liability partnership or foreign limited liability partnership intending to comply with the alternative security provisions set forth in subparagraph (D) of paragraph (1) of subdivision (a), subparagraph (D) of paragraph (2) of subdivision (a), ~~or~~

subparagraph (D) of paragraph (3) of subdivision (a) *or* subparagraph (D) of paragraph (4) of subdivision (a) shall furnish the following information to the Secretary of State's office, in the manner prescribed in, and accompanied by all information required by, the applicable section:

TRANSMITTAL FORM FOR EVIDENCING COMPLIANCE  
WITH SECTION 16956(a)(1)(D), SECTION 16956(a)(2)(D), ~~OR~~  
SECTION 16956(a)(3)(D), *OR SECTION 16956(a)(4)(D)* OF THE  
CALIFORNIA  
CORPORATIONS CODE

The undersigned hereby confirms the following:

1. \_\_\_\_\_  
Name of registered or foreign limited liability partnership
2. \_\_\_\_\_  
Jurisdiction where partnership is organized
3. \_\_\_\_\_  
Address of principal office
4. The registered or foreign limited liability partnership chooses to satisfy the requirements of Section 16956 by confirming, pursuant to ~~Section~~ Sections 16956(a)(1)(D), 16956(a)(2)(D), ~~or~~ 16956(a)(3)(D), *or 16956(a)(4)(D)* and pursuant to Section 16956(c), that, as of the most recently completed fiscal year, the partnership had a net worth equal to or exceeding ten million dollars (\$10,000,000), in the case of a partnership providing accountancy services, fifteen million dollars (\$15,000,000) in the case of a partnership providing legal services, or ten million dollars (\$10,000,000), in the case of a partnership providing architectural services, engineering services, or land surveying services.
5. \_\_\_\_\_  
Title of authorized person executing this form
6. \_\_\_\_\_  
Signature of authorized person executing this form

(c) Pursuant to subparagraph (D) of paragraph (1) of subdivision (a), subparagraph (D) of paragraph (2) of subdivision (a), ~~or~~ subparagraph (D) of paragraph (3) of subdivision (a), *or subparagraph (D) of paragraph (4) of subdivision (a)* a registered limited liability partnership or foreign limited liability partnership may satisfy the requirements of this section by

confirming that, as of the last day of its most recently completed fiscal year, it had a net worth equal to or exceeding the amount required. In order to comply with this alternative method of meeting the requirements established in this section, a registered limited liability partnership or foreign limited liability partnership shall file an annual confirmation with the Secretary of State's office, signed by an authorized member of the registered limited liability partnership or foreign limited liability partnership, accompanied by a transmittal form as prescribed by subdivision (b). In order to be current in a given year, the partnership form for confirming compliance with the optional security requirement shall be on file within four months of the completion of the fiscal year and, upon being filed, shall constitute full compliance with the financial security requirements for purposes of this section as of the beginning of the fiscal year. A confirmation filed during any particular fiscal year shall continue to be effective for the first four months of the next succeeding fiscal year.

(d) Neither the existence of the requirements of subdivision (a) nor the extent of the registered limited liability partnership's or foreign limited liability partnership's compliance with the alternative requirements in this section shall be admissible in court or in any way be made known to a jury or other trier of fact in determining an issue of liability for, or to the extent of, the damages in question.

(e) Notwithstanding any other provision of this section, if a registered limited liability partnership or foreign limited liability partnership is otherwise in compliance with the terms of this section at the time that a bankruptcy or other insolvency proceeding is commenced with respect to the registered limited liability partnership or foreign limited liability partnership, it shall be deemed to be in compliance with this section during the pendency of the proceeding. A registered limited liability partnership that has been the subject of a proceeding and that conducts business after the proceeding ends shall thereafter comply with paragraph (1), (2), ~~or~~ (3), *or* (4) of subdivision (a), in order to obtain the limitations on liability afforded by subdivision (c) of Section 16306.

SEC. 5. Section 16959 of the Corporations Code is amended to read:

1 16959. (a) (1) Before transacting intrastate business in this  
2 state, a foreign limited liability partnership shall comply with all  
3 statutory and administrative registration or filing requirements of  
4 the state board, commission, or agency that prescribes the rules  
5 and regulations governing a particular profession in which the  
6 partnership proposes to be engaged, pursuant to the applicable  
7 provisions of the Business and Professions Code relating to the  
8 profession or applicable rules adopted by the governing board. A  
9 foreign limited liability partnership that transacts intrastate  
10 business in this state shall within 30 days after the effective date  
11 of the act enacting this section or the date on which the foreign  
12 limited liability partnership first transacts intrastate business in  
13 this state, whichever is later, register with the Secretary of State  
14 by submitting to the Secretary of State an application for  
15 registration as a foreign limited liability partnership, signed by a  
16 person with authority to do so under the laws of the jurisdiction  
17 of formation of the foreign limited liability partnership, stating  
18 the name of the partnership, the address of its principal office, the  
19 name and address of its agent for service of process in this state,  
20 a brief statement of the business in which the partnership  
21 engages, and any other matters that the partnership determines to  
22 include.

23 (2) Annexed to the application for registration shall be a  
24 certificate from an authorized public official of the foreign  
25 limited liability partnership's jurisdiction of organization to the  
26 effect that the foreign limited liability partnership is in good  
27 standing in that jurisdiction, if the laws of that jurisdiction permit  
28 the issuance of those certificates, or, in the alternative, a  
29 statement by the foreign limited liability partnership that the laws  
30 of its jurisdiction of organization do not permit the issuance of  
31 those certificates.

32 (b) The registration shall be accompanied by a fee as set forth  
33 in subdivision (b) of Section 12189 of the Government Code.

34 (c) The Secretary of State shall register as a foreign limited  
35 liability partnership any partnership that submits a completed  
36 application for registration with the required fee.

37 (d) The Secretary of State may cancel the filing of the  
38 registration if a check or other remittance accepted in payment of  
39 the filing fee is not paid upon presentation. Upon receiving  
40 written notification that the item presented for payment has not

1 been honored for payment, the Secretary of State shall give a first  
2 written notice of the applicability of this section to the agent for  
3 service of process or to the person submitting the instrument.  
4 Thereafter, if the amount has not been paid by cashier's check or  
5 equivalent, the Secretary of State shall give a second written  
6 notice of cancellation and the cancellation shall thereupon be  
7 effective. The second notice shall be given 20 days or more after  
8 the first notice and 90 days or less after the original filing.

9 (e) A partnership becomes registered as a foreign limited  
10 liability partnership at the time of the filing of the initial  
11 registration with the Secretary of State or at any later date or time  
12 specified in the registration and the payment of the fee required  
13 by subdivision (b). A partnership continues to be registered as a  
14 foreign limited liability partnership until a notice that it is no  
15 longer so registered as a limited liability partnership has been  
16 filed pursuant to Section 16960 or, if applicable, once it has been  
17 dissolved and finally wound up. The status of a partnership  
18 registered as a foreign limited liability partnership and the  
19 liability of a partner of that foreign limited liability partnership  
20 shall not be adversely affected by errors or subsequent changes in  
21 the information stated in an application for registration under  
22 subdivision (a) or an amended registration or notice under  
23 Section 16960.

24 (f) The fact that a registration or amended registration  
25 pursuant to Section 16960 is on file with the Secretary of State is  
26 notice that the partnership is a foreign limited liability  
27 partnership and of those other facts contained therein that are  
28 required to be set forth in the registration or amended  
29 registration.

30 (g) The Secretary of State shall provide a form for a  
31 registration under subdivision (a), which shall include the form  
32 for confirming compliance with the optional security requirement  
33 pursuant to subdivision (c) of Section 16956. The Secretary of  
34 State shall include with instructional materials, provided in  
35 conjunction with the form for registration under subdivision (a),  
36 a notice that filing the registration will obligate the limited  
37 liability partnership to pay an annual tax for that taxable year to  
38 the Franchise Tax Board pursuant to Section 17948 of the  
39 Revenue and Taxation Code. That notice shall be updated  
40 annually to specify the dollar amount of this tax.

1 (h) A foreign limited liability partnership transacting intrastate  
2 business in this state shall not maintain any action, suit, or  
3 proceeding in any court of this state until it has registered in this  
4 state pursuant to this section.

5 (i) Any foreign limited liability partnership that transacts  
6 intrastate business in this state without registration is subject to a  
7 penalty of twenty dollars (\$20) for each day that unauthorized  
8 intrastate business is transacted, up to a maximum of ten  
9 thousand dollars (\$10,000).

10 (j) A partner of a foreign limited liability partnership is not  
11 liable for the debts or obligations of the foreign limited liability  
12 partnership solely by reason of its having transacted business in  
13 this state without registration.

14 (k) A foreign limited liability partnership, transacting business  
15 in this state without registration, appoints the Secretary of State  
16 as its agent for service of process with respect to causes of action  
17 arising out of the transaction of business in this state.

18 (l) “Transact intrastate business” as used in this section means  
19 to repeatedly and successively provide professional limited  
20 liability partnership services in this state, other than in interstate  
21 or foreign commerce.

22 (m) Without excluding other activities that may not be  
23 considered to be transacting intrastate business, a foreign limited  
24 liability partnership shall not be considered to be transacting  
25 intrastate business merely because its subsidiary or affiliate  
26 transacts intrastate business, or merely because of its status as  
27 any one or more of the following:

28 (1) A shareholder of a domestic corporation.

29 (2) A shareholder of a foreign corporation transacting  
30 intrastate business.

31 (3) A limited partner of a foreign limited partnership  
32 transacting intrastate business.

33 (4) A limited partner of a domestic limited partnership.

34 (5) A member or manager of a foreign limited liability  
35 company transacting intrastate business.

36 (6) A member or manager of a domestic limited liability  
37 company.

38 (n) Without excluding other activities that may not be  
39 considered to be transacting intrastate business, a foreign limited  
40 liability partnership shall not be considered to be transacting



1 intrastate business within the meaning of this subdivision solely  
2 by reason of carrying on in this state any one or more of the  
3 following activities:

4 (1) Maintaining or defending any action or suit or any  
5 administrative or arbitration proceeding, or effecting the  
6 settlement thereof or the settlement of claims or disputes.

7 (2) Holding meetings of its partners or carrying on any other  
8 activities concerning its internal affairs.

9 (3) Maintaining bank accounts.

10 (4) Maintaining offices or agencies for the transfer, exchange,  
11 and registration of the foreign limited liability partnership's  
12 securities or maintaining trustees or depositories with respect to  
13 those securities.

14 (5) Effecting sales through independent contractors.

15 (6) Soliciting or procuring orders, whether by mail or through  
16 employees or agents or otherwise, where those orders require  
17 acceptance without this state before becoming binding contracts.

18 (7) Creating or acquiring evidences of debt or mortgages,  
19 liens, or security interest in real or personal property.

20 (8) Securing or collecting debts or enforcing mortgages and  
21 security interests in property securing the debts.

22 (9) Conducting an isolated transaction that is completed within  
23 180 days and not in the course of a number of repeated  
24 transactions of a like nature.

25 (o) A person shall not be deemed to be transacting intrastate  
26 business in this state merely because of its status as a partner of a  
27 registered limited liability partnership or a foreign limited  
28 liability company whether or not registered to transact intrastate  
29 business in this state.

30 (p) The Attorney General may bring an action to restrain a  
31 foreign limited liability partnership from transacting intrastate  
32 business in this state in violation of this chapter.

33 (q) Nothing in this section is intended to, or shall, augment,  
34 diminish, or otherwise alter existing provisions of law, statutes,  
35 or court rules relating to services by a California architect,  
36 California engineer, California land surveyor, California public  
37 accountant, or California attorney in another jurisdiction, or  
38 services by an out-of-state architect, out-of-state engineer,  
39 out-of-state land surveyor, out-of-state public accountant, or  
40 out-of-state attorney in California.

O